IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-10-2006

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THE HONOURABLE MR.JUSTICE K.RAVIRAJA PANDIAN

W.P.No.10548 of 2006

and

WPMP Nos.11931 and 11932 of 2006

S.Murugan .. Petitioner

vs

The Commissioner
Corporation of Salem
Salem .. Respondent

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records of the respondent in connection with the impugned order passed by the respondent in Na.Ka.No.C2/3131/2002 dated 1.2.2002 and C2/27366/2005 dated 25.11.2005 and quash the same.

For Petitioner : Mr.K.Venkataramani
For Respondent : Mr.G.Sankaran

ORDER

The petitioner moved this Court by filing this writ petition for issuance of a writ of certiorari to call for the records of the respondent dated 1.2.2002 and 25.11.2005 and quash the same.

2.The case of the petitioner is that the petitioner entered into the service of the respondent in December 1989. After the respondent municipality was upgraded as a Corporation, the petitioner was absorbed and promoted as Night Watchman in the Corporation in October 2001. He was placed under suspension on the ground that he has received a sum of Rs.600/- as bribe for reducing the property tax for the property owned by one Perumal within the corporation area, and he received it on behalf of the Tax Collector Nagarajan. On that basis, the first impugned order dated 1.2.2002 was issued, and the petitioner was placed under suspension pending enquiry.

3.It is the further case of the petitioner that simultaneous criminal proceedings were also initiated by the Vigilance and Anti-Corruption Department in C.C.No.2 of 2003, and the matter is pending before the Chief Judicial Magistrate, Salem. As nothing was heard thereafter, the petitioner was in continued and suspended animation for more than three years. The petitioner moved this Court Court by filing a writ petition in W.P.No.26454/2005 by

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relying on the Government Order in G.O.Ms.No.40 P & AR Department dated 30.1.1996 for the review of the petitioner's case. Despite the fact that the criminal proceedings are pending before the appropriate criminal Court, this Court by an order dated 19.8.2005 disposed off the writ petition at the time of admission stage itself by putting the Government Pleader on notice and directed the respondent therein to review the case of the petitioner in accordance with G.O.Ms.No.40. Subsequent to that, the second impugned order dated 25.11.2005 has been issued by the respondent, non-suiting the petitioner, for the benefit of the Government, that order is put in issue.

4.Though the prayer is very very cleverly couched at present, considering the scope of the writ petition and the earlier suspension order, the second order also, in my view, does not require any interference by this Court, as it is categorically stated that the petitioner was placed under suspension in view of the fact that he has been arrested and remanded to judicial custody on the ground that he is involved in the criminal case of receiving bribe in order to reduce the property tax of a particular individual, and the petitioner's case would not come within the purview of G.O.Ms.No.40.

5.When the matter is taken up for orders, Mr.Venkataramani, the learned Counsel appearing for the petitioner submitted that the petitioner was only a night watchman, and he cannot have any control over the reduction of the property tax, and the entire case is foisted against him on the ground that the Revenue Inspector directed the house owner one Perumal, to pay the amount to the petitioner, and accordingly, the amount has been received by the petitioner, and he was out of employment for more than three years, and hence, the Court has to sympathetically consider the case of the petitioner and grant the prayer.

6.I have heard the learned Counsel for the petitioner and perused the material on record.

7.As stated in the summation of facts, the petitioner has been placed under suspension on the ground that he received illegal gratification and has been arrested and remanded to judicial custody for more than the prescribed period for imposing the punishment of suspension initially. Now, the criminal case is pending against the petitioner. The complicity of the petitioner has to be decided only in the criminal case, and the G.O.Ms.No.40 P & AR Department dated 30.1.1996 as stated in the impugned order, is not applicable to the facts of the present case, which fact has not been disputed by him. In the light of the above factual statement, I am of the view that the writ petitioner cannot have any legal right so as to have the impugned order set aside. However, it is open to the petitioner to approach the criminal Court to have the C.C. decided at the earliest point of time. If the petitioner approaches the Court with the request for early disposal, the Chief Judicial Magistrate, Salem, is directed to consider the case and take up the matter for early disposal.

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8.With the above observation, this writ petition is disposed of. No costs. Consequently, connected WPMPs are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To;

1.The Commissioner
Corporation of Salem
Salem

2.The Government Pleader
High Court, Madras.

3. The Chief Judicial Magistrate,
Salem.

1 cc to Mr.K. Venkataramani, Advocate, Sr. 48701

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